AGENDA ITEM K-6

CITY OF LODI
COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution approving line of credit with Farmers and Merchants Bank ($3,000,000) for the Lodi Electric Utility

MEETING DATE: July 19, 2006

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: City Council adopt Resolution approving the line of credit with Farmers and Merchants Bank for $3,000,000.

BACKGROUND INFORMATION: The Lodi Electric Utility has the need to secure a short-term line of credit in order to provide cash reserves in the event that current cash reserves are insufficient to meet operating needs. It is not anticipated that the line of credit will be needed. However, as stated by Fitch Ratings, procuring the line of credit is necessary in order to prevent possible further negative ratings action by Fitch Ratings.

Farmers and Merchants Bank provides the City of Lodi with all of its banking services and has approved the line of credit to be used for Electric Utility operations and other emergency needs should they arise. The line of credit is secured with the 9.1 acre property located on Guild Street, which was previously planned to be used as the Electric Utility Department offices. This and all other potential surplus properties will be reviewed with Council at an upcoming meeting.

FISCAL IMPACT: It is anticipated that the costs (including attorney costs and costs to be paid for establishing the line of credit with the Farmers and Merchants Bank) will be the only costs of the line of credit. It is not anticipated that the line of credit will be utilized, but if it is, there will be a short term interest cost associated with the amount and for the time the line of credit is utilized.

FUNDING AVAILABLE: The costs for the line of credit have not been determined at this time but will be provided to the City Council at the time of the meeting.

James R. Krueger
James R. Krueger
Deputy City Manager

APPROVED: BK
Blair King, City Manager

K-6

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT TO FARMERS & MERCHANTS BANK OF CENTRAL CALIFORNIA AND THE BORROWING OF FUNDS THEREUNDER

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WHEREAS, Farmers & Merchants Bank of Central California (the "Bank") has offered to provide a revolving line of credit to the City of Lodi (the "City") in the amount of three million dollars ($3,000,000) to be available through June 30, 2007, pursuant to a loan agreement between the City and the Bank (the "Loan Agreement") which is attached hereto and incorporated herein by reference; and

WHEREAS, Government Code Sections 53850 et seq. authorize the City to borrow money by the issuance of temporary notes under the Loan Agreement; and

WHEREAS, in order to make best use of the credit facility provided by the Bank, it is desirable to delegate to the ~~Director of Finance~~ **Deputy City Manager** the authority to make borrowings under the line of credit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi as follows:

1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct.

2. Approval of Loan Agreement. The proposed form of the Loan Agreement between the Bank and the City, including the form of promissory notes to be delivered by the City thereunder, as presented to this meeting, is hereby approved in substantially final form. The ~~Mayor and the Director of Finance~~ **City Manager** of the City ~~are~~ **is** hereby authorized, for and on behalf of the City Council, to execute and deliver to the Bank the Loan Agreement in substantially said form, with such changes therein as such officer, with the advice of the City Attorney, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

3. Delegation of Authority to Make Borrowings Under Loan Agreement. The City Council hereby authorizes the ~~Director of Finance~~ **Deputy City Manager** of the City, for and on behalf of the City Council, to execute and deliver to the Bank promissory notes representing borrowings under the Loan Agreement; provided that such additional borrowings are made in conformance with the terms, conditions, and limitations of the Loan Agreement and the temporary borrowing provisions of Government Code Sections 53850 et seq., all as determined by the ~~Director of Finance~~ **Deputy City Manager**. Such promissory notes shall be issued in substantially the form attached to the Loan Agreement as Exhibit B, with interest thereon, determined in accordance with the provisions of the Loan Agreement, with such changes therein as such officer, with the advice of the City Attorney, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

4. Authorization to Execute Documents. City officials and staff are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they may deem necessary or advisable in order to proceed with the borrowings authorized hereby and otherwise carry out, give effect to, and comply with the terms and intent of this Resolution. Such actions already taken by such officials and staff are hereby ratified, confirmed, and approved.

Dated: July 19, 2006

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I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

LOAN AGREEMENT

This Agreement dated as of July 1, 2006, is between Farmers and Merchants Bank (the "Bank") and the City of Lodi, California (the "Borrower").

1. LINE OF CREDIT AMOUNT AND TERMS

1.1 Line of Credit Amount.

(a) During the availability period described below, the Bank will provide a line of credit to the Borrower. The amount of the line of credit (the "Commitment") is Three Million Dollars ($3,000,000).

(b) This is a revolving line of credit. During the availability period, the Borrower may repay principal amounts and reborrow them.

1.2 Availability Period. The line of credit is available between the date of this Agreement and June 30, 2007 (the "Expiration Date") unless the Borrower is in default.

1.3 Interest Rate.

(a) The interest rate amount and calculation is described in Exhibit A attached hereto and incorporated herein by reference.

1.4 Repayment Terms.

(a) The Borrower will pay interest on the first day of each month until payment in full of any principal outstanding under this line of credit.

(b) Each advance made under this line of credit will be repaid in full on the last day of the fiscal year of the Borrower during which the advance is made.

(c) There shall be no prepayment penalty.

1.5 Maximum Interest Rate. In the event that the interest rate which would be applicable to any advance under any of the terms of this Agreement would exceed any maximum interest rate imposed by law, then the interest rate applicable to such advance shall be reduced to such maximum interest rate; provided, however, that upon demand by the Bank, the Borrower shall repay to the Bank all advances to which a reduction in interest rate under this paragraph applies.

1.6 Pledge of Funds. To secure the payment of the obligations of the Borrower under this Agreement, the Borrower hereby pledges, and grants to the Bank a lien and charge against, a certificate of deposit ("CD Deposit") placed with the Bank in the amount of $3,000,000 and all unrestricted revenues of the Borrower, including, but not limited to, any revenue received from the State of California or the Federal government, or instrumentality of the foregoing, with respect to projects financed by an advance under this line of credit. The lien shall have first priority with respect to the CD Deposit, and the Borrower shall not create, permit or suffer to exist any other security interest or lien against the CD Fund. The term "unrestricted revenues" shall include, but not be limited to, all taxes, income, revenue, cash receipts, and other monies of the Borrower which are generally available for the payment of current expenses and other obligations of the Borrower. The obligations of the Borrower under this Agreement are payable from all taxes, income, revenue, cash receipts and monies of the Borrower which are lawfully available for such payments ("Available Funds"), whether or not such funds are pledged to the Bank under this paragraph.

1.7 Mandatory Prepayment. The Borrower shall, on demand by the Bank, immediately prepay all amounts outstanding under this Agreement, and no further advances shall be available under this Agreement, upon the occurrence of any of the following:

(a) Any judgments or arbitration awards are entered against the Borrower (except for judgments or arbitration awards which have been stayed pending appeal), or the Borrower enters into any settlement agreements with respect to any litigation or arbitration, in an aggregate amount of One Million Dollars ($1,000,000) or more in excess of any insurance coverage. The Borrower will not be obligated to prepay the credit if, before the expiration of thirty (30) days after the entry of the judgment or arbitration award, the Borrower makes arrangements for the payment of the judgment or arbitration award which are satisfactory to the Bank in its discretion; provided, however, that the Bank will not be obligated to extend any additional credit to the Borrower during the thirty (30) day period.

(b) Any government authority takes action that the Bank believes materially adversely affects the Borrower's financial condition or ability to repay.

(c) A material adverse change occurs in the Borrower's financial condition, properties or prospects, or ability to repay the loan.

2. FEES AND EXPENSES

2.1 Expenses. The Borrower agrees to reimburse the Bank for any expenses it incurs in the preparation of this Agreement and any agreement or instrument required by this Agreement. Expenses include, but are not limited to, reasonable attorneys' fees, including any allocated costs of the Bank's in-house counsel; provided that such attorneys' fees shall not exceed Two Thousand Five Hundred Dollars ($2,500).

3. DISBURSEMENTS, PAYMENTS AND COSTS

3.1 Requests for Credit. Each request for an extension of credit will be made in writing in a manner acceptable to the Bank, or by another means acceptable to the Bank.

3.2 Disbursements and Payments. Each disbursement by the Bank and each payment by the Borrower will be:

(a) made at the Bank's branch (or other location) selected by the Bank from time to time;

(b) made in immediately available funds, or such other type of funds selected by the Bank;

(c) evidenced by records kept by the Bank. In addition, the Bank may, at its discretion, require the Borrower to sign one or more promissory notes.

3.3 Telephone and Telefax Authorization.

(a) The Bank may honor telephone or telefax instructions for repayments or for the designation of fixed interest rates given by any one of the individuals authorized to sign loan agreements on behalf of the Borrower, or any other individual designated by any one of such authorized signers. In addition, the Bank may make advances to the Borrower on the basis of telefaxed copies of the duly executed documents required by paragraph 4.3 below; the Borrower shall promptly deliver to the Bank the executed originals of such documents.

(b) Advances will be deposited in and repayments will be withdrawn from the Borrower's account number ______________, or such other of the Borrower's accounts with the Bank as designated in writing by the Borrower.

(c) The Borrower will provide written confirmation to the Bank of any telephone or telefax instructions within 5 days. If there is a discrepancy and the Bank has already acted on the instructions, the telephone or telefax instructions will prevail over the written confirmation.

(d) The Borrower indemnifies and excuses the Bank (including its officers, employees, and agents) from all liability, loss, and costs in connection with any act resulting from telephone or telefax instructions it reasonably believes are made by any individual authorized by the Borrower to give such instructions. This indemnity and excuse will survive this Agreement's termination.

3.4 Direct Debit.

(a) The Borrower agrees that interest and principal payments and any fees will be deducted automatically on the due date from the Borrower's account number ________, or such other of the Borrower's accounts with the Bank as designated in writing by the Borrower.

(b) The Bank will debit the account on the dates the payments become due. If a due date does not fail on a banking day, the Bank will debit the account on the first banking day following the due date.

(c) The Borrower will maintain sufficient funds in the account on the dates the Bank enters debits authorized by this Agreement. If there are insufficient funds in the account on the date the Bank enters any debit authorized by this Agreement, the debit will be reversed.

3.5 Banking Days. Unless otherwise provided in this Agreement, a banking day is a day other than a Saturday or a Sunday on which the Bank is open for business in California. All payments and disbursements which would be due on a day which is not a banking day will be due on the next banking day. All payments received on a day which is not a banking day will be applied to the credit on the next banking day.

3.6 Additional Costs. The Borrower will pay the Bank for the Bank's costs or losses arising from any statute or regulation, or any request or requirement of a regulatory agency which is applicable to all national banks or a class of all national banks. The costs and losses will be allocated to the loan in a manner determined by the Bank, using any reasonable method. The costs will be paid by the Borrower within 10 days after the last day of each quarter in arrears. The Bank shall provide to the Borrower at least 30 days' written notice of its demand for compensation under this paragraph, and shall describe in reasonable detail the basis for the demand and the method used to calculate the amount demanded. The costs include the following:

(a) any reserve or deposit requirements; and

(b) any capital requirements relating to the Bank's assets and commitments for credit.

3.7 Interest Calculation. Except as otherwise stated in this Agreement, all interest and fees, if any, will be computed on the basis of a 360-day year and the actual number of days elapsed. This results in more interest or a higher fee than if a 365-day year is used.

3.8 Interest on Late Payments. At the Bank's sole option in each instance, any amount not paid when due under this Agreement (including interest) shall bear interest from the due date at the Bank's Base Rate (adjusted, as applicable, as provided in paragraph 1.6 above). This may result in compounding of interest.

3.9 Default Rate. Upon the occurrence and during the continuation of any default under this Agreement, advances under this Agreement will at the option of the Bank bear interest at a rate per annum which is 2.0 percentage points higher than the rate of interest otherwise provided under this Agreement. This will not constitute a waiver of any default.

4. CONDITIONS

The Bank must receive the following items, in form and content acceptable to the Bank, before it is required to extend any credit to the Borrower under this Agreement:

4.1 Authorizations. A Resolution of the City Council of the Borrower authorizing the execution of this Agreement.

4.2 Legal Opinion. A written opinion from the Borrower's legal counsel, covering the authorization of the Borrower to enter into this Agreement and to pledge the assets as required by paragraph 1.6 above, and that the Agreement and such pledge are legal, binding and enforceable against the Borrower, and such other matters as the Bank may reasonably require. The legal counsel and the terms of the opinion must be acceptable to the Bank.

4.3 Conditions to Each Advance. At least one business day before each extension of credit, including the first:

(a) A promissory note evidencing the advance, executed by the Borrower, substantially in the form attached as Exhibit B;

(b) A copy of the resolution of the City Council authorizing the advance, if not previously provided to the Bank;

(c) An opinion from the Borrower's counsel stating that the advance has been duly authorized and is in compliance with all applicable legal requirements, and such other matters as the Bank may reasonably require. The legal counsel and the terms of the opinion must be acceptable to the Bank.

4.4 Other Items. Any other items that the Bank reasonably requires.

5. REPRESENTATIONS AND WARRANTIES

When the Borrower signs this Agreement, and until the Bank is repaid in full, the Borrower makes the following representations and warranties. Each request for an extension of credit constitutes a renewed representation:

5.1 Authorization. This Agreement, and any instrument or agreement required hereunder, are within the Borrower's powers and have been duly authorized.

5.2 Enforceable Agreement. This Agreement is a legal, valid and binding agreement of the Borrower, enforceable against the Borrower in accordance with its terms, and any instrument or agreement required hereunder, when executed and delivered, will be similarly legal, valid, binding and enforceable, subject, in each case, to bankruptcy, insolvency, and other laws that affect creditors' rights generally.

5.3 No Conflicts. This Agreement does not breach any agreement by which the Borrower is bound, except for agreements which do not involve payments by the Borrower in excess of $100,000 in any one year, and this Agreement does not violate any law or regulation.

5.4 Financial Information. All financial and other information that has been or will be supplied to the Bank, including the Borrower's financial statement dated as of June 30, 2006, is:

(a) sufficiently complete to give the Bank accurate knowledge of the

Borrower's financial condition.

(b) in compliance with all government regulations that apply.

Since the date of the financial statement specified above, there has been no material adverse change in the assets or the financial condition of the Borrower.

5.5 Lawsuits. There is no lawsuit, tax claim or other dispute pending or threatened against the Borrower which, if lost, would impair the Borrower's financial condition or ability to repay the loan, except as have been disclosed in writing to the Bank.

5.6 Other Obligations. The Borrower is not in default on any obligation for borrowed money, any purchase money obligation or any other material lease, commitment, contract, instrument or obligation; except for agreements which do not involve payments by the Borrower in excess of $100,000 in any one year.

5.7 No Event of Default. There is no event which is, or with notice or lapse of time or both would be, a default under this Agreement.

5.8. Bank-Qualified Loans. If the advance will be Bank-Qualified, Borrower represents that:

(a) Borrower has no reasonable anticipation of incurring more than $10,000,000 in tax-exempt obligations, other than obligations described in Internal Revenue Code Section 265 (b)(3)(c)(ii), in the calendar year in which the advance is made; and

(b) Borrower will not designate more than $10,000,000 of obligations as Bank-Qualified during the calendar year in which the advance is made.

6. COVENANTS

The Borrower agrees, so long as credit is available under this Agreement and until the Bank is repaid in full:

6.1 Use of Proceeds. To use the proceeds of the credit only for purposes authorized by the Lodi City Council.

6.2 Financial Information. To provide the following financial information and statements and such additional information as requested by the Bank from time to time:

(a) Within 30 days of the date when completed, copies of the Borrower's annual financial statements, certified and dated by an authorized financial officer of the Borrower. These financial statements must be audited (with an unqualified opinion) by a Certified Public Accountant ("CPA") acceptable to the Bank.

(b) Within 30 days of adoption by the Borrower, a copy of the Borrower's budget, which shall be a balanced budget.

(c) Within 30 days after each quarter end, a report of the Borrower's Available Funds in the (to be determined) Fund. This report shall include a summary of how the funds are invested.

6.3 Reserved.

6.4 Limitation on indebtedness. Not to have outstanding or incur indebtedness in excess of any applicable statutory maximum. In particular, the amount borrowed by the Borrower in any fiscal year pursuant to Government Code section 53850 et. seq. shall not exceed 85% of the estimated amount of the then uncollected Available Funds of the Borrower which will be available for the payment of such indebtedness, as required by Government Code section 53858.

6.5 Other Liens. Not to create, assume, or allow any security interest or lien (including judicial liens) on the Borrower's CD Deposit, except the security interest in favor of the Bank.

6.6 Notices to Bank. To promptly notify the Bank in writing of:

(a) any lawsuit against the Borrower in an amount of One Million Dollars ($1,000,000) or more.

(b) any failure to comply with this Agreement.

(c) any material adverse change in the Borrower's financial condition or operations.

(d) any additional indebtedness or liens incurred by the Borrower after the date of this Agreement.

(e) any change in the Borrower's investment policy.

(f) any actual contingent liabilities of the Borrower and any such information or representations.

6.7 Books and Records. To maintain adequate books and records.

6.8 Audits. To allow the Bank and its agents to examine, audit and make copies of books and records at any reasonable time for any reasonable purpose related to this Agreement. If any of the Borrower's books or records are in the possession of a third party, the Borrower authorizes that third party to permit the Bank or its agents to have access to perform audits and to respond to the Bank's requests for information concerning such books and records.

6.9 Compliance with Laws. To comply with the laws, regulations, and orders of any government body with authority over the Borrower.

6.10 Perfection of Liens. To help the Bank perfect and protect its security interests and liens, and reimburse it for related costs it incurs to protect its security interests and liens.

6.11 Cooperation. To take any action requested by the Bank to carry out the intent of this Agreement.

6.12 Insurance. To maintain insurance as is usual for the Borrower.

7. DEFAULT

If any of the following events occur, the Bank may do one or more of the following: declare the Borrower in default, stop making any additional credit available to the Borrower, and require the Borrower to repay its entire debt immediately and without prior notice. If an event of default occurs under the paragraph entitled "Bankruptcy," below, with respect to the Borrower, then the entire debt outstanding under this Agreement will automatically be due immediately.

7.1 Failure to Pay. The Borrower fails to make a payment under this Agreement within 7 days after the date when due.

7.2 Lien Priority. The Bank fails to have an enforceable lien on or security interest in any property given as security for this loan, with the priority required by this Agreement.

7.3 False Information. The Borrower has given the Bank false or misleading information or representation.

7.4 Bankruptcy. The Borrower files a bankruptcy petition, a bankruptcy petition is filed against the Borrower, or the Borrower makes a general assignment for the benefit of creditors,

7.5 Receivers. A receiver or similar official is appointed for the Borrower.

7.6 Cross-default. Any default occurs under any agreement in connection with any credit the Borrower has obtained from anyone else or which the Borrower has guaranteed in the amount of One Million Dollars ($1,000,000) or more in the aggregate.

7.7 Other Bank Agreements. The Borrower falls to meet the conditions of, or fails to perform any obligation under any other agreement the Borrower has with the Bank or any affiliate of the Bank. If, in the Bank's opinion, the breach is capable of being remedied, the breach will not be considered an event of default under this Agreement for a period of thirty (30) days after the date on which the Bank gives written notice of the breach to the Borrower, provided, however, that the Bank will not be obligated to extend any additional credit to the Borrower during that period.

7.8 Other Breach Under Agreement. The Borrower fails to meet the conditions of, or fails to perform any obligation under, any term of this Agreement not specifically referred to in this Article. If, in the Bank's opinion, the breach is capable of being remedied, the breach will not be considered an event of default under this Agreement for a period of thirty (30) days after the date on which the Bank gives written notice of the breach to the Borrower; provided, however, that the Bank will not be obligated to extend any additional credit to the Borrower during that period.

8. ENFORCING THIS AGREEMENT; MISCELLANEOUS

8.1 GAAP. Except as otherwise stated in this Agreement, all financial information provided to the Bank and all financial covenants will be made under generally accepted accounting principles, consistently applied.

8.2 California Law. This Agreement is governed by California law.

8.3 Successors and Assigns. This Agreement is binding on the Borrower's and the Bank's successors and assignees. The Borrower agrees that it may not assign this Agreement without the Bank's prior consent. The Bank may sell participations in or assign this loan, and may exchange financial information about the Borrower with actual or potential participants or assignees. If a participation is sold or the loan is assigned, the purchaser will have the right of set-off against the Borrower.

8.4 Reserved.

8.5 Severability; Waivers. If any part of this Agreement is not enforceable, the rest of the Agreement may be enforced. The Bank retains all rights, even if it makes a loan after default. If the Bank waives a default, it may enforce a later default. Any consent or waiver under this Agreement must be in writing.

8.6 Attorneys' Fees. The Borrower shall reimburse the Bank for any reasonable costs and attorneys' fees incurred by the Bank in connection with the enforcement or preservation of any rights or remedies under this Agreement and any other documents executed in connection with this Agreement, and including any amendment, waiver, "workout" or restructuring under this Agreement. In the event of a lawsuit or arbitration proceeding, the prevailing party is entitled to recover costs and reasonable attorneys' fees incurred in connection with the lawsuit or arbitration proceeding, as determined by the court or arbitrator. In the event that any case is commenced by or against the Borrower under the Bankruptcy Code (Title 11, United States Code) or any similar or successor statute, the Bank is entitled to recover costs and reasonable attorneys' fees incurred by the Bank related to the preservation, protection, or enforcement of any rights of the Bank in such a case. As used in this paragraph, "attorneys' fees" includes the allocated costs of the Bank's in-house counsel.

8.7 One Agreement. This Agreement and any related security or other agreements required by this Agreement, collectively:

(a) represent the sum of the understandings and agreements between the Bank and the Borrower concerning this credit;

(b) replace any prior oral or written agreements between the Bank and the Borrower concerning this credit; and

(c) are intended by the Bank and the Borrower as the final, complete and exclusive statement of the terms agreed to by them.

In the event of any conflict between this Agreement and any other agreements required by this Agreement, this Agreement will prevail.

8.8 Notices. All notices required under this Agreement shall be personally delivered or sent by first class mail, postage prepaid, or by overnight courier, to the addresses on the signature page of this Agreement, or sent by facsimile to the fax numbers listed on the signature page, or to such other addresses as the Bank and the Borrower may specify from time to time in writing. Notices sent by first class mail shall be deemed delivered on the earlier of actual receipt or on the fourth business day after deposit in the U.S. mail.

8.9 Headings. Article and paragraph headings are for reference only and shall not affect the interpretation or meaning of any provisions of this Agreement.

8.10 Counterparts. This Agreement may be executed in as many counterparts as necessary or convenient, and by the different parties on separate counterparts each of which, when so executed, shall be deemed an original but all such counterparts shall constitute but one and the same agreement.

This Agreement is executed as of the date stated at the top of the first page.

Credit Commitment

Borrower: City of Lodi – Electric Department.

Amount: $3,000,000.

Type: Unsecured (Option 1)/Secured (Option 2), Revolving Line of Credit.

Purpose: The Electric Department's short term operating capital needs.

Maturity: June 30, 2007.

Interest Rate: Option 1 - Unsecured: The interest rate will be set at the time of each advance & be equal to the 30-day London Interbank Offer Rate (LIBOR) plus 1.50%. If that rate were set today, it would be 6.88% based on the current 30-day LIBOR rate of 5.38% plus 1.50%. The rate for each advance will be reset every 30 days based on the then 30-day LIBOR rate plus 1.50%. Advances will be limited to amounts of $500,000 or greater. Interest will be calculated on the basis of an actual/360-day year. (Any tax advantaged cost that can be obtained by the Bank related to this credit commitment will be passed on to the Borrower in the form of a reduced interest rate.)

Option 2 – Secured: The interest rate will be set at the time of each advance & be equal to 1.35% over the F&M rate paid for cash collateral as defined below ("Collateral"). Interest will be calculated on the basis of an actual/360-day year. (Any tax advantaged cost that can be obtained by the Bank related to this credit commitment will be passed on to the Borrower in the form of a reduced interest rate.)

Pre-Payment Penalty: There will be no pre-payment penalty.

Fees: None. All outside legal cost to be paid by Borrower. (See condition #7 below.)

Collateral: Option 1 - Unsecured. Option 2 - Secured: City of Lodi cash deposits in an F&M Bank, segregated & bank controlled account equal to or greater than the amount drawn under the line of credit.

Guarantors: None.

Other Conditions: (1) This credit commitment is subject to the City Council approval of a resolution authorizing the borrowing, repayment & terms of the credit commitment as well as authorizing either one of the following to make draw requests under the line of credit; the City Manager or the Deputy City Manager.

(2) This credit commitment is subject to the City of Lodi providing an opinion letter from the City's outside attorney stating the City has the authority to borrower & repay the credit, and has properly authorized all the terms & repayment of the credit. The outside attorney is also to review all the loan documentation & provide an opinion that the documents are binding & legally enforceable under the laws of the state of California.

(3) The City of Lodi agrees to provide the 2006 Comprehensive Annual Financial Report, including the CPA audited financial statements, within 180 days of FYE.

(4) Within 30 days of each quarter end, the City of Lodi agrees to provide to the Bank the quarterly bond rating agencies reports submitted to the Fitch, and Standard & Poor's rating agencies.

(5) Draw requests under the line of credit will be signed by either one of the following; the City Manager or the Deputy City Manager, and are to be accompanied by a statement of the use of funds, and the total of Cash & Marketable Securities held by the Electric Department after the draw request.

(6) The City of Lodi will maintain all rating agency, bond ratings of a BBB- or above. Any bond rating of lower than a BBB- will be considered a default of the line of credit, the Bank will have the right to terminate all advances under the line of credit, and demand the outstanding balance of the line of credit be paid immediately.

(7) The City of Lodi agrees to pay the cost of any outside legal council used by the Bank to review or prepare loan documentation.

You will be required to execute documentation that is in a form and in substance satisfactory to the Bank, otherwise this credit commitment will expire on August 30, 2006. Subsequent documentation may include terms and conditions that are different from or in addition to those that are stated in this letter. For example, these terms may include various warranties, representations and covenants regarding financial conditions. Any pre-closing conditions (including but not limited to condition #1 & #2 above) stated in the loan documents would have to be met prior to funding.

Exhibit B - Form of Promissory Note

$____________________________ Lodi, California

1. For Value Received, the City of Lodi, California ("Borrower") promises to pay to the order of Farmers and Merchants Bank ("Bank") at its office in Lodi, California, the principal amount of _________ Dollars ($______________) at the times and in the amounts specified in the Loan Agreement referred to below. Borrower promises to pay interest on such unpaid principal amount at the times and at the rates specified in the Loan Agreement

2. This Note is issued under the Loan Agreement between Borrower and Bank dated July 1, 2006 (the "Loan Agreement"), and is subject, among other things, to acceleration as provided therein. Capitalized terms defined in the Loan Agreement shall have the same meaning in this Note.

3. The undersigned officers of the Borrower certify as follows:

(a) The undersigned have authority to execute this Note under Resolution No._____ adopted by the Lodi City Council on _____________. Such Resolution is still in force and has not been modified or amended, except for any amendments which have been provided to, and are acceptable to, the Bank.

(b) There has been no event of default under the Loan Agreement.

(c) The proceeds of this Note shall be used only for expenditures approved by the Lodi City Council.

(d) The amount borrowed under this Note, together with all other amounts previously borrowed by the Borrower during this fiscal year pursuant to Government Code section 53850 et. seq., does not exceed 85% of the estimated amount of uncollected Available Funds of the Borrower which will be available for the payment of such indebtedness, as required by Government Code section 53858.

4. To secure the payment of the obligations of the Borrower under this Note, the Borrower hereby pledges, and grants to the Bank a lien and charge against, the Borrower's CD Deposit **(need more information)**, and all unrestricted revenues of the Borrower, including, but not limited to, any revenue received from the State of California or the Federal government, or instrumentality of the foregoing, with respect to projects financed by an advance under under the Agreement. The lien shall have first priority with respect to the CD Deposit, and the Borrower shall not create, permit or suffer to exist any other security interest or lien against the CD Deposit. The term "unrestricted revenues" shall include, but not be limited to, all taxes, income, revenue, cash receipts, and other money of the Borrower which are generally available for the payment of current expenses and other obligations of the Borrower. The obligations of the Borrower under this Note are payable from all taxes, income, revenue, cash receipts and moneys of the Borrower which are lawfully available for such payments, whether or not such funds are pledged to the Bank under this paragraph.

5. This Note shall be governed by and construed under the laws of the State of California

In Witness Whereof, the undersigned has caused this Note to be executed by its officers thereunto duly authorized.

CITY OF LODI, CALIFORNIA

By: ______________________________

Title: ______________________________

By: ______________________________

Title: ______________________________

K-6

Fitch Ratings
KNOW YOUR RISK

Public Finance

Public Power/North America
Credit Analysis

Lodi, Calif.
Electric Utility

Ratings

Security Class	Current Rating	Previous Rating	Date Changed
$78.6 Million Electric System Certificates of Participation	BBB–	BBB+	6/6/06

Rating Watch.......Negative
Rating Outlook.......None

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Profile

Lodi's electric utility provides retail electric service to approximately 27,500 customers in and around the city of Lodi, which is located in the San Joaquin Valley of California, 35 miles south of Sacramento. Revenues by customer class are composed of residential (33%) commercial (43%) and industrial (24%) revenues. Income levels are below those of the state and national levels.

Key Credit Strengths

- Improved power supply hedging program.
- Management implementation of more frequent reporting and internal controls.

Key Credit Concerns

- Exceptionally thin liquidity position.
- Below-average financial metrics.
- Ability to fund ongoing maintenance program.
- Limited rate-raising flexibility.
- Continued exposure to natural gas and power price volatility.

Rating Rationale

On June 6, 2006, Fitch Ratings downgraded the rating on the city of Lodi, Calif., electric system's certificates of participation notes to 'BBB–' from 'BBB+' and placed the notes on Negative Rating Watch. The downgrade reflects a significant deterioration of the utility's projected fiscal-year 2006 (June 30) financial results from levels indicated to Fitch in March 2006 and concerns regarding the exceptionally thin level of liquidity at the utility. Absent additional revenue-raising or cost-cutting efforts, the utility's financial position is likely to remain under pressure through fiscal-year 2007. At present, no additional rate increases are planned, and the utility has already undergone substantial cost-cutting efforts. The Negative Rating Watch reflects Fitch's view that without additional liquidity to support ongoing operations and structural balance between the utility's revenues and expenses, the rating may be further at risk.

The 'BBB–' investment-grade rating is currently supported by a shift in Lodi's power supply strategy, adopted in January 2006 by the city council, which resulted in more than 95% of the utility's open power supply position being hedged for the following fiscal year (2007) compared to 0% in previous years. Further supporting the rating is a 17% rate increase implemented in December 2005. Fiscal-year 2007 will be the first full fiscal year the utility will benefit from an additional $10 million generated by the rate increase. As a result of the rate increase, lower purchased power costs and other cost-cutting measures, revenues in fiscal-year 2007 are expected to be sufficient to meet the utility's forecasted expenses in fiscal-year 2007, including the general fund transfer. The rating reflects Fitch's view that Lodi will take the necessary actions to achieve structural balance and improve its liquidity position.

Recent Developments

Deterioration in Financial Position in Fiscal-Year 2006

In June 2006, the electric system revised its financial projections for year-end (June 30) to indicate that the utility may end fiscal-year 2006 with only $1.7 million of available cash, which is approximately $1.6 million less than indicated in a previous forecast provided to Fitch in March 2006. The reduction in cash and operating margin in projected fiscal-year 2006 results primarily from lower than forecasted retail power sales and an additional $1.6 million in transmission costs. Management attributes the reduction in revenues to rate elasticity resulting from the 17% rate increase and customer uncertainty regarding the size of the increase prior to its implementation. This trend may imply limited future rate flexibility given the recent increase and the overall tolerance level of the community. The additional cost increases are primarily related to an unexpected increase in transmission costs charged by the California Independent System Operator.

As a result, Lodi is currently projecting to end fiscal-year 2006 with a loss of $5.7 million after debt service and transfers, as opposed to a $4 million loss, which was projected a few months ago. Lodi will use cash reserves from its rate-stabilization fund as well as reserves held at the Northern California Power Agency (NCPA) on behalf of Lodi to meet its 1.1 times (x) rate covenant and make the annual required transfer payment to the city's general fund ($6 million in 2006). This is expected to leave the electric system with only $1.7 million in cash reserves at the end of the year, a level that represents an exceptionally thin level at 11 days cash. Lodi has relied on cash reserves during four of the past five years to fund its annual expenses.

Ongoing Liquidity Pressure in Fiscal-Year 2007

Due to hedged and lower purchased power costs, management expects fiscal-year 2007 to result in a balanced budget. However, little or no increase to reserve levels is currently expected, leaving the utility with limited liquidity options in the event of any unfavorable cost uncertainty or unforeseen events. Fitch views the acquisition of additional liquidity as a key step to maintaining the current rating.

Increased Pressure from Debt Portfolio

Lodi's debt portfolio creates additional ongoing cost pressure. Lodi's variable-rate debt exposure of $42 million represents a large portion (45%) of the utility's capital structure, and dwindling cash reserves provide a limited hedge against rising interest rates. Liquidity pressure could also arise from the utility's swap portfolio, through the requirements for collateral posting or if the utility receives below-investment-grade ratings from either Fitch or Standard & Poor's, a termination of the swaps would be triggered, which may require a termination payment from Lodi to the counterparty depending on the fair market value of the swap.

Implementation of Power-Hedging Program

Lodi adopted a new power supply strategy in January 2006 to hedge a greater portion of its open position. Since January, Lodi hedged more than 95% of its power supply for fiscal-year 2007. Lodi expects to hedge most of its energy costs for fiscal-year 2008 over the next year. Fitch believes that this strategy should introduce greater cost stability than past energy procurement practices, although cost volatility will not be entirely eliminated.

Concern Regarding Political Climate

In Lodi, a successful citizen initiative may prompt the roll-back of a city council-approved water rate increase that went into effect on Jan. 1, 2006. Measure H has been placed on the Nov. 7, 2006 ballot, and voters will decide whether or not to maintain the water rate increase, which was put in place to pay for the required clean-up of contaminated groundwater. Although water revenues do not support the electric certificates, Fitch views this development as a slight credit concern, as it may indicate a generally resistant attitude in the community toward electric rate increases that could be necessary in the future.

■ Power Supply

Lodi does not own any generation assets but receives power as part of its membership in the joint-action agency, NCPA. Fitch rates two of NCPA's projects, the geothermal and hydroelectric projects, at 'A' with Stable Rating Outlooks. Fitch does not rate the combustion turbine project. NCPA's geothermal and hydroelectric project ratings are unaffected by the Lodi downgrade due to the strength of the underlying take-or-pay power supply agreements that require a 25% step-up in the event of a participant default and the favorable project economics of both projects that provide low-cost renewable power.

Historically, from April through September, Lodi lacked 40%–50% of its needs, and during October through March, the system lacked 80%–90% of its needs. The electric system's net short power position resulted from the city's load growth, the 2002 termination of a power purchase contract with Calpine Corp., a long-term seasonal power exchange agreement with Seattle City Light (expiring in 2014) and a power supply strategy that intentionally kept Lodi positioned to purchase its open position in the short-term market since it was expected that it would benefit in a deregulated California market, although this did not materialize.

Recognizing the risk of its power supply strategy as well as the utility's deteriorating financial profile, the city and the electric system took steps in 2006 to address its above-average power supply risk. These steps included:

- Creating a risk oversight committee and a new risk-management policy that among many benefits sets hedging goals, counterparty credit standards and a transparent process for risk review.

- Gaining the authorization from the city council to procure power beyond the city's current fiscal year.
- Modifying its power supply strategy to minimize cost variability.

Management/Governance

A five-member city council governs the electric utility. City council members are elected citywide for staggered four-year terms. The utility department is under the direction of the electric utility director, who is appointed by the city manager. In the past two years, management of the city and the utility have undergone significant changes with a new city manager, finance director and utility general manager.

Rates

Lodi's electric rates (which do not include a fuel-adjustment mechanism) are set by the city council. To meet rising energy costs, in November, 2005, the city council passed a 17% rate increase raised the average rates to 14 cents/kilowatt-hour (kwh) from 11.8 cents/kwh. It is important to note that the rate increase was heavily weighted to Lodi's industrial customers in order to move toward greater cost recovery in each customer class. In the past, the electric system did not charge the full cost of service to its industrial customers.

After accounting for the recent rate adjustment, Lodi's electric retail rates remain in line with neighboring investor-owned utility, Pacific Gas & Electric (PG&E). Lodi's residential rates are slightly higher than PG&E rates, commercial rates are about even and industrial rates are lower. PG&E's rates are expected to increase over next year as it continues to pass fuel cost increases to its customers.

Service Area and Customers

Fitch views the Lodi service area and customers as credit neutral. Lodi is located in California's Central Valley, approximately 90 miles east of San Francisco. The regional economy is based primarily in agricultural products, in particular, the wine grape industry. Income levels are 72% and 78% below state and U.S. levels, although unemployment and poverty levels are comparable to state and national averages. Population and energy sales growth has been moderate, averaging 1.6% and 3% over the past five years.

Lodi serves the entire city, or approximately 27,500 customers. Revenues by customer class are diverse and consist of residential (33%) commercial (43%) and industrial (24%) revenues. Lodi has minimal customer concentration with the 10 largest customers representing 11% of revenue, with the largest General Mills, Inc. processing plant comprising 8% of energy sales and 3.4% of revenues. Fitch also notes that the largest utility customers have been part of the community for several decades.

Security Features

Revenue Pledge

Net revenues of electric system.

Rate Covenant

Electric system must set rates to equal 1.10x annual debt service. Net revenues include available funds authorized for the electric fund, such as transfers from the rate-stabilization fund.

Debt-Service Reserve Fund

Lessor of 10% of certificate of participation proceeds, maximum annual debt service or 1.25x average annual debt service.

Additional Bonds Test

Additional parity obligations are permitted if net revenues in the 12 consecutive months of the previous 18 equal 1.10x maximum annual debt service (MADS) for exiting and proposed debt or an engineer's report certifies that adjusted net revenues for the next five years equal 1.10x MADS on existing and proposed debt.

What Could Lead to a Positive Rating Action?

- Realistic budget adjustments made to fully recover costs and improve the utility's finances.
- Demonstrated and sustainable trend of positive operating results.

What Could Lead to a Negative Rating Action?

- Failure to procure additional sources of liquidity in fiscal-year 2007.
- Unexpected cost increases or capital needs that result in additional pressure on Lodi's financial position.

Financial Summary — Lodi Electric System

($ Mil., Fiscal Year Ended June 30)

	2005	2004	2003	2002
Cash Flow				
Debt-Service Coverage (x)*	1.10	1.66	1.83	(6.93)
Adjusted Debt-Service Coverage Including General Fund Transfer**	0.14	0.92	1.00	(8.07)
Debt/Funds Available for Debt Service	11.4	6.4	6.9	(3.2)
Liquidity				
Days Cash/Liquidity On Hand†	37	49	7	14
Leverage				
Equity/Capitalization (%)	14.4	15.7	17.1	10.4
Other (%)				
General Fund Transfer/Revenues	11.2	11.1	11.6	5.8
Gross Variable-Rate Debt/Capitalization	50.9	46.7	44.9	0.0
Variable-Rate Exposure/Capitalization‡	45.7	42.0	40.4	69.6
Selected Balance-Sheet Items				
Total Operating Revenues	53,908	52,899	48,872	47,267
Total Operating Expenses	54,163	52,682	48,558	64,901
Operating Income	(255)	217	315	(17,635)
Adjustment to Operating Income for Debt-Service Coverage	7,178	12,897	12,274	778
Funds Available for Debt Service	6,923	13,114	12,589	(16,856)
General Fund Transfer	6,059	5,865	5,672	2,758
Total Annual Debt Service	6,274	7,880	6,897	2,431
Unrestricted Funds	4,897	6,347	772	2,423
Restricted Funds	11,873	16,200	18,356	22,962
Total Cash	16,770	22,547	19,127	25,385
Total Debt	78,664	84,338	86,267	54,060
Equity and/or Retained Earnings	13,275	15,694	17,783	6,295

*Does not include transfers from rate-stabilization fund and other liquidity sources. **General fund transfer included as operating expense. †Day cash calculated based on unrestricted funds. ‡Includes interest rate swaps. Source: City of Lodi comprehensive annual financial reports.

RESOLUTION NO. 2006-142

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT TO FARMERS & MERCHANTS BANK OF CENTRAL CALIFORNIA AND THE BORROWING OF FUNDS THEREUNDER

==

WHEREAS, Farmers & Merchants Bank of Central California (the "Bank") has offered to provide a revolving line of credit to the City of Lodi (the "City") in the amount of three million dollars ($3,000,000) to be available through June 30, 2007, pursuant to a loan agreement between the City and the Bank (the "Loan Agreement") which is attached hereto and incorporated herein by reference; and

WHEREAS, Government Code Sections 53850 et seq. authorize the City to borrow money by the issuance of temporary notes under the Loan Agreement; and

WHEREAS, in order to make best use of the credit facility provided by the Bank, it is desirable to delegate to the Deputy City Manager the authority to make borrowings under the line of credit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi as follows:

1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct.

2. Approval of Loan Agreement. The proposed form of the Loan Agreement between the Bank and the City, including the form of promissory notes to be delivered by the City thereunder, as presented to this meeting, is hereby approved in substantially final form. The City Manager of the City is hereby authorized, for and on behalf of the City Council, to execute and deliver to the Bank the Loan Agreement in substantially said form, with such changes therein as such officer, with the advice of the City Attorney, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

3. Delegation of Authority to Make Borrowings Under Loan Agreement. The City Council hereby authorizes the Deputy City Manager of the City, for and on behalf of the City Council, to execute and deliver to the Bank promissory notes representing borrowings under the Loan Agreement; provided that such additional borrowings are made in conformance with the terms, conditions, and limitations of the Loan Agreement and the temporary borrowing provisions of Government Code Sections 53850 et seq., all as determined by the Deputy City Manager. Such promissory notes shall be issued in substantially the form attached to the Loan Agreement as Exhibit B, with interest thereon, determined in accordance with the provisions of the Loan Agreement, with such changes therein as such officer, with the advice of the City Attorney, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

4. <u>Authorization to Execute Documents</u>. City officials and staff are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they may deem necessary or advisable in order to proceed with the borrowings authorized hereby and otherwise carry out, give effect to, and comply with the terms and intent of this Resolution. Such actions already taken by such officials and staff are hereby ratified, confirmed, and approved.

Dated: July 19, 2006

==

I hereby certify that Resolution No. 2006-142 was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Johnson, and Mayor Hitchcock

NOES: COUNCIL MEMBERS – Mounce

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

Jennifer M. Perrin

JENNIFER M. PERRIN
Interim City Clerk

EXHIBIT A

LOAN AGREEMENT

This Agreement dated as of July 1, 2006, is between Farmers and Merchants Bank (the "Bank") and the City of Lodi, California (the "Borrower").

1. LINE OF CREDIT AMOUNT AND TERMS

1.1 Line of Credit Amount.

(a) During the availability period described below, the Bank will provide a line of credit to the Borrower. The amount of the line of credit (the "Commitment") is Three Million Dollars ($3,000,000).

(b) This is a revolving line of credit. During the availability period, the Borrower may repay principal amounts and reborrow them.

1.2 Availability Period. The line of credit is available between the date of this Agreement and June 30, 2007 (the "Expiration Date") unless the Borrower is in default.

1.3 Interest Rate.

(a) The interest rate amount and calculation is described in Exhibit A attached hereto and incorporated herein by reference.

1.4 Repayment Terms.

(a) The Borrower will pay interest on the first day of each month until payment in full of any principal outstanding under this line of credit.

(b) Each advance made under this line of credit will be repaid in full on the last day of the fiscal year of the Borrower during which the advance is made.

(c) There shall be no prepayment penalty.

1.5 Maximum Interest Rate. In the event that the interest rate which would be applicable to any advance under any of the terms of this Agreement would exceed any maximum interest rate imposed by law, then the interest rate applicable to such advance shall be reduced to such maximum interest rate; provided, however, that upon demand by the Bank, the Borrower shall repay to the Bank all advances to which a reduction in interest rate under this paragraph applies.

1.6 Pledge of Funds. To secure the payment of the obligations of the Borrower under this Agreement, the Borrower hereby pledges, and grants to the Bank a lien and charge against, a certificate of deposit ("CD Deposit") placed with the Bank in the amount of $3,000,000 and all unrestricted revenues of the Borrower, including, but not limited to, any revenue received from the State of California or the Federal government, or instrumentality of the foregoing, with respect to projects financed by an advance under this line of credit. The lien shall have first priority with respect to the CD Deposit, and the Borrower shall not create, permit or suffer to exist any other security interest or lien against the CD Fund. The term "unrestricted revenues" shall include, but not be limited to, all taxes, income, revenue, cash receipts, and other monies of the Borrower which are generally available for the payment of current expenses and other obligations of the Borrower. The obligations of the Borrower under this Agreement are payable from all taxes, income, revenue, cash receipts and monies of the Borrower which are lawfully available for such payments ("Available Funds"), whether or not such funds are pledged to the Bank under this paragraph.

1.7 Mandatory Prepayment. The Borrower shall, on demand by the Bank, immediately prepay all amounts outstanding under this Agreement, and no further advances shall be available under this Agreement, upon the occurrence of any of the following:

(a) Any judgments or arbitration awards are entered against the Borrower (except for judgments or arbitration awards which have been stayed pending appeal), or the Borrower enters into any settlement agreements with respect to any litigation or arbitration, in an aggregate amount of One Million Dollars ($1,000,000) or more in excess of any insurance coverage. The Borrower will not be obligated to prepay the credit if, before the expiration of thirty (30) days after the entry of the judgment or arbitration award, the Borrower makes arrangements for the payment of the judgment or arbitration award which are satisfactory to the Bank in its discretion; provided, however, that the Bank will not be obligated to extend any additional credit to the Borrower during the thirty (30) day period.

(b) Any government authority takes action that the Bank believes materially adversely affects the Borrower's financial condition or ability to repay.

(c) A material adverse change occurs in the Borrower's financial condition, properties or prospects, or ability to repay the loan.

2. FEES AND EXPENSES

2.1 Expenses. The Borrower agrees to reimburse the Bank for any expenses it incurs in the preparation of this Agreement and any agreement or instrument required by this Agreement. Expenses include, but are not limited to, reasonable attorneys' fees, including any allocated costs of the Bank's in-house counsel; provided that such attorneys' fees shall not exceed Two Thousand Five Hundred Dollars ($2,500).

3. DISBURSEMENTS, PAYMENTS AND COSTS

3.1 Requests for Credit. Each request for an extension of credit will be made in writing in a manner acceptable to the Bank, or by another means acceptable to the Bank.

3.2 Disbursements and Payments. Each disbursement by the Bank and each payment by the Borrower will be:

(a) made at the Bank's branch (or other location) selected by the Bank from time to time;

(b) made in immediately available funds, or such other type of funds selected by the Bank;

(c) evidenced by records kept by the Bank. In addition, the Bank may, at its discretion, require the Borrower to sign one or more promissory notes.

3.3 Telephone and Telefax Authorization.

(a) The Bank may honor telephone or telefax instructions for repayments or for the designation of fixed interest rates given by any one of the individuals authorized to sign loan agreements on behalf of the Borrower, or any other individual designated by any one of such authorized signers. In addition, the Bank may make advances to the Borrower on the basis of telefaxed copies of the duly executed documents required by paragraph 4.3 below; the Borrower shall promptly deliver to the Bank the executed originals of such documents.

(b) Advances will be deposited in and repayments will be withdrawn from the Borrower's account number ______________, or such other of the Borrower's accounts with the Bank as designated in writing by the Borrower.

(c) The Borrower will provide written confirmation to the Bank of any telephone or telefax instructions within 5 days. If there is a discrepancy and the Bank has already acted on the instructions, the telephone or telefax instructions will prevail over the written confirmation.

(d) The Borrower indemnifies and excuses the Bank (including its officers, employees, and agents) from all liability, loss, and costs in connection with any act resulting from telephone or telefax instructions it reasonably believes are made by any individual authorized by the Borrower to give such instructions. This indemnity and excuse will survive this Agreement's termination.

3.4 Direct Debit.

(a) The Borrower agrees that interest and principal payments and any fees will be deducted automatically on the due date from the Borrower's account number ________, or such other of the Borrower's accounts with the Bank as designated in writing by the Borrower.

(b) The Bank will debit the account on the dates the payments become due. If a due date does not fail on a banking day, the Bank will debit the account on the first banking day following the due date.

(c) The Borrower will maintain sufficient funds in the account on the dates the Bank enters debits authorized by this Agreement. If there are insufficient funds in the account on the date the Bank enters any debit authorized by this Agreement, the debit will be reversed.

3.5 Banking Days. Unless otherwise provided in this Agreement, a banking day is a day other than a Saturday or a Sunday on which the Bank is open for business in California. All payments and disbursements which would be due on a day which is not a banking day will be due on the next banking day. All payments received on a day which is not a banking day will be applied to the credit on the next banking day.

3.6 Additional Costs. The Borrower will pay the Bank for the Bank's costs or losses arising from any statute or regulation, or any request or requirement of a regulatory agency which is applicable to all national banks or a class of all national banks. The costs and losses will be allocated to the loan in a manner determined by the Bank, using any reasonable method. The costs will be paid by the Borrower within 10 days after the last day of each quarter in arrears. The Bank shall provide to the Borrower at least 30 days' written notice of its demand for compensation under this paragraph, and shall describe in reasonable detail the basis for the demand and the method used to calculate the amount demanded. The costs include the following:

(a) any reserve or deposit requirements; and

(b) any capital requirements relating to the Bank's assets and commitments for credit.

3.7 Interest Calculation. Except as otherwise stated in this Agreement, all interest and fees, if any, will be computed on the basis of a 360-day year and the actual number of days elapsed. This results in more interest or a higher fee than if a 365-day year is used.

3.8 Interest on Late Payments. At the Bank's sole option in each instance, any amount not paid when due under this Agreement (including interest) shall bear interest from the due date at the Bank's Base Rate (adjusted, as applicable, as provided in paragraph 1.6 above). This may result in compounding of interest.

3.9 Default Rate. Upon the occurrence and during the continuation of any default under this Agreement, advances under this Agreement will at the option of the Bank bear interest at a rate per annum which is 2.0 percentage points higher than the rate of interest otherwise provided under this Agreement. This will not constitute a waiver of any default.

4. CONDITIONS

The Bank must receive the following items, in form and content acceptable to the Bank, before it is required to extend any credit to the Borrower under this Agreement:

4.1 Authorizations. A Resolution of the City Council of the Borrower authorizing the execution of this Agreement.

4.2 Legal Opinion. A written opinion from the Borrower's legal counsel, covering the authorization of the Borrower to enter into this Agreement and to pledge the assets as required by paragraph 1.6 above, and that the Agreement and such pledge are legal, binding and enforceable against the Borrower, and such other matters as the Bank may reasonably require. The legal counsel and the terms of the opinion must be acceptable to the Bank.

4.3 Conditions to Each Advance. At least one business day before each extension of credit, including the first:

(a) A promissory note evidencing the advance, executed by the Borrower, substantially in the form attached as Exhibit B;

(b) A copy of the resolution of the City Council authorizing the advance, if not previously provided to the Bank;

(c) An opinion from the Borrower's counsel stating that the advance has been duly authorized and is in compliance with all applicable legal requirements, and such other matters as the Bank may reasonably require. The legal counsel and the terms of the opinion must be acceptable to the Bank.

4.4 Other Items. Any other items that the Bank reasonably requires.

5. REPRESENTATIONS AND WARRANTIES

When the Borrower signs this Agreement, and until the Bank is repaid in full, the Borrower makes the following representations and warranties. Each request for an extension of credit constitutes a renewed representation:

5.1 Authorization. This Agreement, and any instrument or agreement required hereunder, are within the Borrower's powers and have been duly authorized.

5.2 Enforceable Agreement. This Agreement is a legal, valid and binding agreement of the Borrower, enforceable against the Borrower in accordance with its terms, and any instrument or agreement required hereunder, when executed and delivered, will be similarly legal, valid, binding and enforceable, subject, in each case, to bankruptcy, insolvency, and other laws that affect creditors' rights generally.

5.3 No Conflicts. This Agreement does not breach any agreement by which the Borrower is bound, except for agreements which do not involve payments by the Borrower in excess of $100,000 in any one year, and this Agreement does not violate any law or regulation.

5.4 Financial Information. All financial and other information that has been or will be supplied to the Bank, including the Borrower's financial statement dated as of June 30, 2006, is:

(a) sufficiently complete to give the Bank accurate knowledge of the

Borrower's financial condition.

(b) in compliance with all government regulations that apply.

Since the date of the financial statement specified above, there has been no material adverse change in the assets or the financial condition of the Borrower.

5.5 Lawsuits. There is no lawsuit, tax claim or other dispute pending or threatened against the Borrower which, if lost, would impair the Borrower's financial condition or ability to repay the loan, except as have been disclosed in writing to the Bank.

5.6 Other Obligations. The Borrower is not in default on any obligation for borrowed money, any purchase money obligation or any other material lease, commitment, contract, instrument or obligation; except for agreements which do not involve payments by the Borrower in excess of $100,000 in any one year.

5.7 No Event of Default. There is no event which is, or with notice or lapse of time or both would be, a default under this Agreement.

5.8. Bank-Qualified Loans. If the advance will be Bank-Qualified, Borrower represents that:

(a) Borrower has no reasonable anticipation of incurring more than $10,000,000 in tax-exempt obligations, other than obligations described in Internal Revenue Code Section 265 (b)(3)(c)(ii), in the calendar year in which the advance is made; and

(b) Borrower will not designate more than $10,000,000 of obligations as Bank-Qualified during the calendar year in which the advance is made.

6. COVENANTS

The Borrower agrees, so long as credit is available under this Agreement and until the Bank is repaid in full:

6.1 Use of Proceeds. To use the proceeds of the credit only for purposes authorized by the Lodi City Council.

6.2 Financial Information. To provide the following financial information and statements and such additional information as requested by the Bank from time to time:

(a) Within 30 days of the date when completed, copies of the Borrower's annual financial statements, certified and dated by an authorized financial officer of the Borrower. These financial statements must be audited (with an unqualified opinion) by a Certified Public Accountant ("CPA") acceptable to the Bank.

(b) Within 30 days of adoption by the Borrower, a copy of the Borrower's budget, which shall be a balanced budget.

(c) Within 30 days after each quarter end, a report of the Borrower's Available Funds in the (to be determined) Fund. This report shall include a summary of how the funds are invested.

6.3 Reserved.

6.4 Limitation on indebtedness. Not to have outstanding or incur indebtedness in excess of any applicable statutory maximum. In particular, the amount borrowed by the Borrower in any fiscal year pursuant to Government Code section 53850 et. seq. shall not exceed 85% of the estimated amount of the then uncollected Available Funds of the Borrower which will be available for the payment of such indebtedness, as required by Government Code section 53858.

6.5 Other Liens. Not to create, assume, or allow any security interest or lien (including judicial liens) on the Borrower's CD Deposit, except the security interest in favor of the Bank.

6.6 Notices to Bank. To promptly notify the Bank in writing of:

(a) any lawsuit against the Borrower in an amount of One Million Dollars ($1,000,000) or more.

(b) any failure to comply with this Agreement.

(c) any material adverse change in the Borrower's financial condition or operations.

(d) any additional indebtedness or liens incurred by the Borrower after the date of this Agreement.

(e) any change in the Borrower's investment policy.

(f) any actual contingent liabilities of the Borrower and any such information or representations.

6.7 Books and Records. To maintain adequate books and records.

6.8 Audits. To allow the Bank and its agents to examine, audit and make copies of books and records at any reasonable time for any reasonable purpose related to this Agreement. If any of the Borrower's books or records are in the possession of a third party, the Borrower authorizes that third party to permit the Bank or its agents to have access to perform audits and to respond to the Bank's requests for information concerning such books and records.

6.9 Compliance with Laws. To comply with the laws, regulations, and orders of any government body with authority over the Borrower.

6.10 Perfection of Liens. To help the Bank perfect and protect its security interests and liens, and reimburse it for related costs it incurs to protect its security interests and liens.

6.11 Cooperation. To take any action requested by the Bank to carry out the intent of this Agreement.

6.12 Insurance. To maintain insurance as is usual for the Borrower.

7. DEFAULT

If any of the following events occur, the Bank may do one or more of the following: declare the Borrower in default, stop making any additional credit available to the Borrower, and require the Borrower to repay its entire debt immediately and without prior notice. If an event of default occurs under the paragraph entitled "Bankruptcy," below, with respect to the Borrower, then the entire debt outstanding under this Agreement will automatically be due immediately.

7.1 Failure to Pay. The Borrower fails to make a payment under this Agreement within 7 days after the date when due.

7.2 Lien Priority. The Bank fails to have an enforceable lien on or security interest in any property given as security for this loan, with the priority required by this Agreement.

7.3 False Information. The Borrower has given the Bank false or misleading information or representation.

7.4 Bankruptcy. The Borrower files a bankruptcy petition, a bankruptcy petition is filed against the Borrower, or the Borrower makes a general assignment for the benefit of creditors,

7.5 Receivers. A receiver or similar official is appointed for the Borrower.

7.6 Cross-default. Any default occurs under any agreement in connection with any credit the Borrower has obtained from anyone else or which the Borrower has guaranteed in the amount of One Million Dollars ($1,000,000) or more in the aggregate.

7.7 Other Bank Agreements. The Borrower falls to meet the conditions of, or fails to perform any obligation under any other agreement the Borrower has with the Bank or any affiliate of the Bank. If, in the Bank's opinion, the breach is capable of being remedied, the breach will not be considered an event of default under this Agreement for a period of thirty (30) days after the date on which the Bank gives written notice of the breach to the Borrower, provided, however, that the Bank will not be obligated to extend any additional credit to the Borrower during that period.

7.8 Other Breach Under Agreement. The Borrower fails to meet the conditions of, or fails to perform any obligation under, any term of this Agreement not specifically referred to in this Article. If, in the Bank's opinion, the breach is capable of being remedied, the breach will not be considered an event of default under this Agreement for a period of thirty (30) days after the date on which the Bank gives written notice of the breach to the Borrower; provided, however, that the Bank will not be obligated to extend any additional credit to the Borrower during that period.

8. ENFORCING THIS AGREEMENT; MISCELLANEOUS

8.1 GAAP. Except as otherwise stated in this Agreement, all financial information provided to the Bank and all financial covenants will be made under generally accepted accounting principles, consistently applied.

8.2 California Law. This Agreement is governed by California law.

8.3 Successors and Assigns. This Agreement is binding on the Borrower's and the Bank's successors and assignees. The Borrower agrees that it may not assign this Agreement without the Bank's prior consent. The Bank may sell participations in or assign this loan, and may exchange financial information about the Borrower with actual or potential participants or assignees. If a participation is sold or the loan is assigned, the purchaser will have the right of set-off against the Borrower.

8.4 Reserved.

8.5 Severability; Waivers. If any part of this Agreement is not enforceable, the rest of the Agreement may be enforced. The Bank retains all rights, even if it makes a loan after default. If the Bank waives a default, it may enforce a later default. Any consent or waiver under this Agreement must be in writing.

8.6 Attorneys' Fees. The Borrower shall reimburse the Bank for any reasonable costs and attorneys' fees incurred by the Bank in connection with the enforcement or preservation of any rights or remedies under this Agreement and any other documents executed in connection with this Agreement, and including any amendment, waiver, "workout" or restructuring under this Agreement. In the event of a lawsuit or arbitration proceeding, the prevailing party is entitled to recover costs and reasonable attorneys' fees incurred in connection with the lawsuit or arbitration proceeding, as determined by the court or arbitrator. In the event that any case is commenced by or against the Borrower under the Bankruptcy Code (Title 11, United States Code) or any similar or successor statute, the Bank is entitled to recover costs and reasonable attorneys' fees incurred by the Bank related to the preservation, protection, or enforcement of any rights of the Bank in such a case. As used in this paragraph, "attorneys' fees" includes the allocated costs of the Bank's in-house counsel.

8.7 One Agreement. This Agreement and any related security or other agreements required by this Agreement, collectively:

(a) represent the sum of the understandings and agreements between the Bank and the Borrower concerning this credit;

(b) replace any prior oral or written agreements between the Bank and the Borrower concerning this credit; and

(c) are intended by the Bank and the Borrower as the final, complete and exclusive statement of the terms agreed to by them.

In the event of any conflict between this Agreement and any other agreements required by this Agreement, this Agreement will prevail.

8.8 Notices. All notices required under this Agreement shall be personally delivered or sent by first class mail, postage prepaid, or by overnight courier, to the addresses on the signature page of this Agreement, or sent by facsimile to the fax numbers listed on the signature page, or to such other addresses as the Bank and the Borrower may specify from time to time in writing. Notices sent by first class mail shall be deemed delivered on the earlier of actual receipt or on the fourth business day after deposit in the U.S. mail.

8.9 Headings. Article and paragraph headings are for reference only and shall not affect the interpretation or meaning of any provisions of this Agreement.

8.10 Counterparts. This Agreement may be executed in as many counterparts as necessary or convenient, and by the different parties on separate counterparts each of which, when so executed, shall be deemed an original but all such counterparts shall constitute but one and the same agreement.

This Agreement is executed as of the date stated at the top of the first page.

Credit Commitment

Borrower: City of Lodi – Electric Department.

Amount: $3,000,000.

Type: Unsecured (Option 1)/Secured (Option 2), Revolving Line of Credit.

Purpose: The Electric Department's short term operating capital needs.

Maturity: June 30, 2007.

Interest Rate: Option 1 - Unsecured: The interest rate will be set at the time of each advance & be equal to the 30-day London Interbank Offer Rate (LIBOR) plus 1.50%. If that rate were set today, it would be 6.88% based on the current 30-day LIBOR rate of 5.38% plus 1.50%. The rate for each advance will be reset every 30 days based on the then 30-day LIBOR rate plus 1.50%. Advances will be limited to amounts of $500,000 or greater. Interest will be calculated on the basis of an actual/360-day year. (Any tax advantaged cost that can be obtained by the Bank related to this credit commitment will be passed on to the Borrower in the form of a reduced interest rate.)

Option 2 – Secured: The interest rate will be set at the time of each advance & be equal to 1.35% over the F&M rate paid for cash collateral as defined below ("Collateral"). Interest will be calculated on the basis of an actual/360-day year. (Any tax advantaged cost that can be obtained by the Bank related to this credit commitment will be passed on to the Borrower in the form of a reduced interest rate.)

Pre-Payment Penalty: There will be no pre-payment penalty.

Fees: None. All outside legal cost to be paid by Borrower. (See condition #7 below.)

Collateral: Option 1 - Unsecured. Option 2 - Secured: City of Lodi cash deposits in an F&M Bank, segregated & bank controlled account equal to or greater than the amount drawn under the line of credit.

Guarantors: None.

Other Conditions: (1) This credit commitment is subject to the City Council approval of a resolution authorizing the borrowing, repayment & terms of the credit commitment as well as authorizing either one of the following to make draw requests under the line of credit; the City Manager or the Deputy City Manager.

(2) This credit commitment is subject to the City of Lodi providing an opinion letter from the City's outside attorney stating the City has the authority to borrower & repay the credit, and has properly authorized all the terms & repayment of the credit. The outside attorney is also to review all the loan documentation & provide an opinion that the documents are binding & legally enforceable under the laws of the state of California.

(3) The City of Lodi agrees to provide the 2006 Comprehensive Annual Financial Report, including the CPA audited financial statements, within 180 days of FYE.

(4) Within 30 days of each quarter end, the City of Lodi agrees to provide to the Bank the quarterly bond rating agencies reports submitted to the Fitch, and Standard & Poor's rating agencies.

(5) Draw requests under the line of credit will be signed by either one of the following; the City Manager or the Deputy City Manager, and are to be accompanied by a statement of the use of funds, and the total of Cash & Marketable Securities held by the Electric Department after the draw request.

(6) The City of Lodi will maintain all rating agency, bond ratings of a BBB- or above. Any bond rating of lower than a BBB- will be considered a default of the line of credit, the Bank will have the right to terminate all advances under the line of credit, and demand the outstanding balance of the line of credit be paid immediately.

(7) The City of Lodi agrees to pay the cost of any outside legal council used by the Bank to review or prepare loan documentation.

You will be required to execute documentation that is in a form and in substance satisfactory to the Bank, otherwise this credit commitment will expire on August 30, 2006. Subsequent documentation may include terms and conditions that are different from or in addition to those that are stated in this letter. For example, these terms may include various warranties, representations and covenants regarding financial conditions. Any pre-closing conditions (including but not limited to condition #1 & #2 above) stated in the loan documents would have to be met prior to funding.

Exhibit B - Form of Promissory Note

$______________________________ Lodi, California

1. For Value Received, the City of Lodi, California ("Borrower") promises to pay to the order of Farmers and Merchants Bank ("Bank") at its office in Lodi, California, the principal amount of ________ Dollars ($_____________) at the times and in the amounts specified in the Loan Agreement referred to below. Borrower promises to pay interest on such unpaid principal amount at the times and at the rates specified in the Loan Agreement

2. This Note is issued under the Loan Agreement between Borrower and Bank dated July 1, 2006 (the "Loan Agreement"), and is subject, among other things, to acceleration as provided therein. Capitalized terms defined in the Loan Agreement shall have the same meaning in this Note.

3. The undersigned officers of the Borrower certify as follows:

(a) The undersigned have authority to execute this Note under Resolution No._____ adopted by the Lodi City Council on ____________. Such Resolution is still in force and has not been modified or amended, except for any amendments which have been provided to, and are acceptable to, the Bank.

(b) There has been no event of default under the Loan Agreement.

(c) The proceeds of this Note shall be used only for expenditures approved by the Lodi City Council.

(d) The amount borrowed under this Note, together with all other amounts previously borrowed by the Borrower during this fiscal year pursuant to Government Code section 53850 et. seq., does not exceed 85% of the estimated amount of uncollected Available Funds of the Borrower which will be available for the payment of such indebtedness, as required by Government Code section 53858.

4. To secure the payment of the obligations of the Borrower under this Note, the Borrower hereby pledges, and grants to the Bank a lien and charge against, the Borrower's CD Deposit **(need more information)**, and all unrestricted revenues of the Borrower, including, but not limited to, any revenue received from the State of California or the Federal government, or instrumentality of the foregoing, with respect to projects financed by an advance under under the Agreement. The lien shall have first priority with respect to the CD Deposit, and the Borrower shall not create, permit or suffer to exist any other security interest or lien against the CD Deposit. The term "unrestricted revenues" shall include, but not be limited to, all taxes, income, revenue, cash receipts, and other money of the Borrower which are generally available for the payment of current expenses and other obligations of the Borrower. The obligations of the Borrower under this Note are payable from all taxes, income, revenue, cash receipts and moneys of the Borrower which are lawfully available for such payments, whether or not such funds are pledged to the Bank under this paragraph.

5. This Note shall be governed by and construed under the laws of the State of California

In Witness Whereof, the undersigned has caused this Note to be executed by its officers thereunto duly authorized.

CITY OF LODI, CALIFORNIA

By: ______________________________

Title: ____________________________

By: ______________________________

Title: ____________________________